



WFVA/NOKIA File Nos.: 944-3.112/NC19367US

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Re application of: S. Hamalainen, et al

Serial No.: 09/977,578 : Group Art Unit: 2665

Filed: 15 October 2001 : Examiner: Nguyen

For: **POWER CONTROL DURING COMPRESSED MODE**

MAIL STOP APPEAL BRIEFS - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

REPLY BRIEF FOR APPELLANT

Sir:

This is a reply to an Answer mailed 29 June 2007.

RESPONSE TO SECTIONS (1) to (9) OF EXAMINER'S ANSWER

No reply.

RESPONSE TO SECTION (10) OF EXAMINER'S ANSWER

This is a reply to section (10) Response to Argument in the Examiner's Answer:

A. Paragraph Bridging Pages 16-17

In reply to the remarks in the paragraph bridging pages 16-17 of the Examiner's

Answer, it is respectfully submitted that applicants' Brief, page 9, lines 5-11, states as follows:

... [I]t is respectfully submitted that ... neither the admitted prior art, Vukovic nor the proposed combination thereof even remotely suggests the whole thrust of the claimed invention, which is to adjust the power level of the data

transmission in a compression mode of operation in the user equipment to a correct power level before a subsequent data transmission is sent, as claimed herein.

It is also respectfully submitted that when interpreting the subject matter of independent claims 1 or 11 consistent with that shown and described in the patent application, especially in view of that known in the prior art, a person skilled in the art would appreciate that according to the claimed invention the power level of data transmission in the compression mode of operation in the user equipment is adjusted to a correct power level before a subsequent data transmission is sent.

B. Paragraph on Page 17, lines 4-8

The paragraph on page 17, lines 4-8, of the Examiner's Answer provides a reply to the statement in applicants' Brief, page 9, lines 5-11.

First, the paragraph on page 17, lines 4-8, of the Examiner's Answer states that 'the limitation of "to adjust the power level of data transmission in a compression mode of operation" is not claimed.' Second, the paragraph on page 17, lines 4-8 states that: 'The claim merely states "implementing a compression mode of operation" without claiming that the data is transmitted in the compression mode and that the transmission data of the compression mode is ceased.'

In reply, it is respectfully submitted that these two sentences or statements in the paragraph on page 17, lines 4-8, are incorrect for the following reasons:

Consistent with that set forth above, applicants' February 12th Brief, page 9, lines 7-11, states that **"the whole thrust of the claimed invention ... is to adjust the power level**

of the data transmission in a compression mode of operation in the user equipment to a correct power level before a subsequent data transmission is sent, as claimed herein."

Regarding the first sentence or statement in the paragraph on page 17, lines 4-8, the preamble of the claim 1 recites that the present invention relates to "A method of implementing a compressed mode of operation in a mobile communication network in which data transmission and reception in user equipment is ceased so a required measurement can be made." ¹ [Underlined emphasis added.] The body of claim 1 recites that the present invention is characterized by the fact that "the power level of data transmission in the user equipment is adjusted to a correct power level before a subsequent data transmission is sent." ² [Underlined emphasis added.] Clearly, in contrast to the reasoning in the first sentence or statement in the paragraph on page 17, lines 4-8, of the Examiner's Answer, it is respectfully submitted that when the preamble of claim 1 and the body of claim 1 are read and interpreted in conjunction with one another, and further when read in conjunction with the patent application and prior art as a whole, a person skilled in the art would appreciate and interpret the language of claim 1 to mean that the power level of data transmission is adjusted in a compression mode of operation, as claimed. Because of this, it is respectfully submitted that the first sentence or statement in the paragraph on page 17, lines 4-8 is incorrect because this feature is recited in claim 1.

¹ Independent claim 11 recites user equipment having a similar limitation in the preamble of the claim.

² Again, independent claim 11 recites user equipment having a similar limitation in the body of the claim.

Regarding part one of the second sentence in the paragraph on page 17, lines 4-8, of the Examiner's Answer, it is respectfully submitted that neither the language of claim 1 nor the statement in applicants' February 12th Brief, page 9, lines 7-11, recites that "the data is transmitted in the compression mode." Instead, the power level adjustment is made in the compression mode. Clearly, claim 1 'states "implementing a compression mode of operation" without claiming that the data is transmitted in the compression mode,' consistent with that set forth in part one of this second sentence or statement in the paragraph on page 17, lines 4-8, of the Examiner's Answer.³ Because of this, it is respectfully submitted that part one of this second sentence or statement in the paragraph on page 17, lines 4-8, of the Examiner's Answer is correct on this point.⁴

However, regarding part two of the second sentence or statement in the paragraph on page 17, lines 4-8, of the Examiner's Answer, it is respectfully submitted that the preamble of claim 1 recites "implementing a compressed mode of operation in a mobile communication network in which data transmission and reception in user equipment is ceased" Clearly, according to the claimed invention, "the transmission data of the compression mode is ceased." Because of this, it is respectfully submitted that part two of the second sentence or statement in the paragraph on page 17, lines 4-8, of the Examiner's Answer, **is incorrect**, thus the second sentence or statement in the paragraph on page 17, lines 4-8, of the Examiner's Answer, *as a whole* is **incorrect**.

³ Independent claim 11 recites user equipment having a similar limitation.

⁴ It is respectfully submitted that the scope of the claimed invention is not intended to be limited to the same. For example, an alleged infringing device of claim 1 does not need to be transmitting the data in the compression mode in order to infringe claim 1.

C. Paragraph Bridging Pages 17-18 of the Examiner's Answer

The paragraph bridging pages 17-18 of the Examiner's Answer repeats almost verbatim the reasoning on page 6, lines 6-12, in the Examiner's Answer regarding why Vukovic allegedly teaches the body of claim 1, i.e. which states that the present invention is characterized in that "the power level of data transmission in the user equipment is adjusted to a correct power level before a subsequent data transmission is sent," as claimed.

Foremost, it is respectfully submitted that as set forth above both sentences or statements in the paragraph on page 17, lines 4-8, of the Examiner's Answer are incorrect and thus add nothing new to the repeated line of reasoning in the paragraph bridging pages 17-18 of the Examiner's Answer.

Second, consistent with, and as a supplement to, the arguments set forth in the February 12th Brief, page 9-10, applicants' reply to the repeated line of reasoning in the paragraph bridging pages 17-18 of the Examiner's Answer as follows:

Clearly, the admitted prior art does not teach or suggest an adjustment of the power level of the data transmission in a compression mode of operation, especially to correct the power level before a subsequent data transmission is sent. The reasoning in the paragraph on page 17, lines 4-8 of the Examiner's Answer, either overlooks or ignores this fundamental deficiency in the teaching of the admitted prior art.

Nevertheless, to try to make up for the deficiency in the teaching of the admitted prior art, the reasoning in the paragraph bridging pages 17-18 of the Examiner's Answer, looks to that disclosed in Vukovic. However, Vukovic's MS 302 merely adjusts the power level of

each access request until receiving an "ACK" or "NAK" back from the base station 306 in Figure 3, as set forth in paragraphs 21 to 23. **It is respectfully submitted that, similar to the admitted prior art, Vukovic's adjustment of the power level is not done during a compression mode of operation, especially to correct the power level before a subsequent data transmission is sent, as claimed.**

In view of this, both cited prior art references in the proposed combination are missing both critical pieces of the claimed invention - one, to adjust the power level during a compression mode of operation, and two, to correct the power level before a subsequent data transmission is sent when in this compression mode.

It is respectfully submitted that since Vukovic does not make up for the fundamental deficiency in the teaching of the admitted prior art in both of these most important regards, the proposed combination thereof does not, and cannot, result in the claimed invention.

Furthermore, It is respectfully submitted that the proposed combination is not proper under the patent laws because nothing on the record suggests why one of ordinary skill in the art would be motivated or desire to look to Vukovic to make up for these fundamental deficiencies in the teaching of the admitted prior art. For example, nothing on the record teaches or suggests to do so in order "to provide [a] readjusted power level after each halt during the compressed mode of operation for preventing a closed-loop distortion, thus reducing the frame error rate and block rate," as previously stated in the paragraph bridging pages 6-7 of the Examiner's Answer. Moreover, if one of ordinary skill in the art would be so motivated for some unexplained reason, then even when looking at Vukovic they would not find a solution to the problem being addressed by the claimed invention because Vukovic

does not teach, suggest or hint at the fact that the power level of data transmission in the compression mode of operation in the user equipment is adjusted to a correct power level before a subsequent data transmission is sent, as claimed. The instant patent application provides the only teaching or suggestion on the record to make such a data transmission power level adjustment and correction during the compression mode of operation, as claimed.

For all these reasons, it is respectfully submitted that the proposed combination of the cited prior art does not teach or suggest the claimed invention.

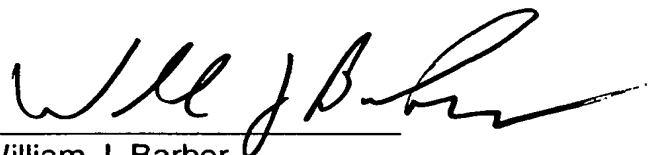
ALLOWABLE CLAIMS 3-5, 10, 13, 13-15 and 20-33

Although not stated in the Examiner's Answer, dependent claims 3-5, 10, 14-15 and 20-33 are indicated to allowable if rewritten or amended to include the base claim and any intervening claims. Moreover, claim 13 is an independent claim that recites a specific embodiment of the invention and is indicated to be allowable.

CONCLUSION

In view of this, it is respectfully submitted that the reasoning in the rejection of these claims is in error, and should be reversed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. J. Barber', written over a horizontal line.

William J. Barber
Attorney for Applicant
Registration No. 32,720